

Practitioner's Docket No. 51334

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

☒ In re application of: Tsuchida et al.

Application No.: 10/010,193

Group No. 1773

Filed: December 5, 2001

Examiner:

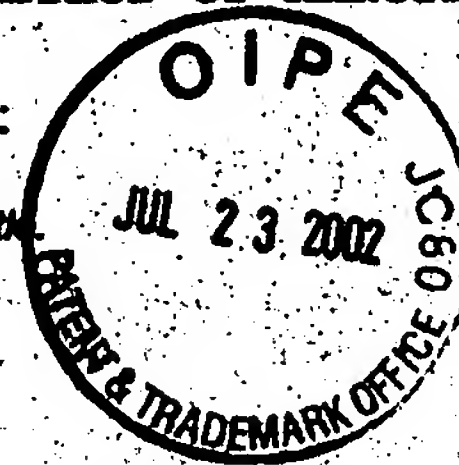
For: NON-CHARGING RESIN COMPOSITE AND METHOD OF MANUFACTURING THE SAME

☐ Patent No.:

Issue date:

*NOTE: Preferably also insert inventor's name and invention title

Assistant Commissioner for Patents
Washington, D.C. 20231



PETITION TO CORRECT CORRESPONDENCE FILING DATE
FOR "DATE-IN" INCORRECTLY ENTERED OR OMITTED
ON EXPRESS MAIL LABEL
(37 C.F.R. § 1.10(d))

NOTE: See § 513, M.P.E.P., 7th Edition.

1. This is a petition to accord the correspondence in the above-identified

☒ application

☐ patent

a filing date of 12/05/01 (Date), which is the date the correspondence was deposited with the U.S.P.S. with proper postage.

2. Submitted herewith is the statement of Deanna M. Rivernider as to when the discrepancy was discovered and establishing that this petition is being filed promptly thereafter. 37 C.F.R. § 1.10(d)(1).

3. Attached is a true copy of the first page of the correspondence which was filed, showing both the date on which this correspondence was mailed as Express Mail Label No. ET755554034US and that the number of the Express Mail was placed thereon prior to the original mailing. 37 C.F.R. § 1.10(d)(2).

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Date: 7/16/02

FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office, (703) _____

Signature

Deanna M. Rivernider

(type or print name of person certifying)

(Petition to Accord Correspondence Filing Date For "Date-in" Incorrectly Entered or Omitted on Express Mail Label [8-14]-page 1 of 3)

4. Correction is required because:

- ☐ the wrong "Date-In" was entered by the U.S.P.S. on the envelope delivered to the P.T.O., but the correct date was entered on Express Mail label.
- ☐ the wrong "Date-In" was entered by the U.S.P.S. on the original "Express Mail" label and on the envelope delivered to the P.T.O.
- ☒ Deposit of correspondence at an Express Mail drop box and wrong date entered by U.S.P.S. *
- ☐ Other:

***Copy of the Customer Receipt of the Express Mail Label was not received from the U.S.P.S.**

5. The following establish the showing required by 37 C.F.R. § 1.10(d)(3):

NOTE: Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number, the application number, attorney docket number or other such file identification number, the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log. A notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

The reason the PTO considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

- (1) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or
- (2) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

☐ Evidence from the U.S.P.S. as follows:

☒ Express Mail Log that Came into being within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the U.S.P.S.

☐ Other:

6. The petition fee (37 C.F.R. § 1.17(h)–\$130.00) is paid as follows:

☒ Attached is a ☒ check ☐ money order in the amount of \$ 130.00

☒ Authorization is hereby made to charge the amount of \$ _____

☒ to Deposit Account No. 04-1105

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Reg. No.: 33,860

Tel. No.: (617) 523-3400

Customer No.:



SIGNATURE OF PRACTITIONER

Peter F. Corless

(type or print name of practitioner)

Edwards & Angell, LLP

Dike, Bronstein, Roberts & Cushman, IP Group

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Boston, MA 02209



COPY OF PAPERS
ORIGINALLY FILED

LRT-39-JPN

Docket No. 51334
Page 1 of 4

Declaration and Power of Attorney for Patent Application English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

NON-CHARGING RESIN COMPOSITE AND METHOD OF MANUFACTURING SAME

the specification of which

(check one)

☒ corresponds to and claims priority of Japanese Patent Application No. 2000-370340, filed December 5, 2000.

☐ was filed on _____ as United States Application No. or PCT Application No. _____ and was amended on _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)			<u>Priority Not Claimed</u>
<u>2000-370340</u> (Number)	<u>Japan</u> (Country)	<u>5 December 2000</u> (Day/Month/Year Filed)	<input type="checkbox"/>
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/>
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/>

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

_____	_____
(Application Serial No.)	(Filing Date)
_____	_____
(Application Serial No.)	(Filing Date)
_____	_____
(Application Serial No.)	(Filing Date)

I hereby claim the benefit under 35 U.S.C. Section 120 of the United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark office all information known to me to be material to patentability as defined in Title 37, C.F.C., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

_____	_____	_____
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)
_____	_____	_____
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)
_____	_____	_____
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(list name and registration number)*

David G. Conlin	Reg. No. 27,026	Christine C. O'Day	Reg. No. 38,256
George W. Neuner	Reg. No. 26,964	Robert L. Buchanan	Reg. No. 40,927
Linda M. Buckley	Reg. No. 31,003	David E. Tucker	Reg. No. 27,840
Peter J. Manus	Reg. No. 26,766	Lisa Swiszc Hazzard	Reg. No. 44,368
Peter F. Corless	Reg. No. 33,860	George W. Hartnell	Reg. No. 42,639
Cara Z. Lowen	Reg. No. 38,227	Kathleen Carr	Reg. No. 41,658
William J. Daley, Jr.	Reg. No. 35,487	Stewart L. Gitler	Reg. No. 31,256
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John B. Alexander	Reg. No. 48,399		

S. Matthew Cairns	Reg. No. 42,378
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